

PT 00-39

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

GIRL SCOUTS, LAND OF LINCOLN)		
COUNCIL, INC.)	A.H. Docket #	99-PT-0030
Applicant)		
)	Docket #	98-84-64
v.)		
)	Parcel Index #	22-10.0-382-008
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. J. Patrick Joyce, Jr., attorney at law, appeared on behalf of the Girl Scouts, Land of Lincoln Council.

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, on March 9, 2000.

Ms. Sue Clark, Executive Director of the Girl Scouts, Land of Lincoln Council (hereinafter referred to as the "Council" or the "Applicant"), Ms. Lisa Lundquist, Director of Membership of the Council, and Ms. Nanette Reep, Director of Finance and Human Resources of the Council were present and testified on behalf of the Council.

The Council purchased the parcel here in issue and constructed a new Council headquarters and a twenty-seven space concrete parking lot thereon. Pursuant to the application for exemption filed by the Council, the Illinois Department of Revenue (hereinafter referred to as the "Department") approved for exemption 93.1% of the building and site for the 1998-

assessment year and denied the exemption to 6.9% of the building and site for the 1998-assessment year. The Council and the Department agree that the portion of the building and site which was denied exemption, was the Girl Scout sales shop, in this case known as the Trefoil Shop. In fact it has been determined that the Trefoil Shop constitutes approximately 8% of the building on this parcel and not 6.9%

The issues in this matter include: first, whether the Council is a charitable organization; secondly, whether the Council owned the parcel here in issue during the 1998-assessment year; and lastly, whether the Council was either in the process of adapting this parcel and the building thereon for charitable use or actually used this parcel and all of the building thereon for charitable purposes during the 1998-assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the Council is a charitable organization. It is also determined that the Council owned this parcel during the entire 1998-assessment year. It is further determined that the Council was either in the process of adapting this parcel for exempt use or actually using the entire parcel and the building thereon for exempt purposes during the entire 1998-assessment year.

It is therefore determined that the entirety of Sangamon County Parcel Index No. 22-10.0-382-008 and the improvements thereon should be exempt from real estate taxation for the entire 1998-assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department in this matter, namely that 93.1% of the building and site was exempt from taxation and 6.9% of the building and site was taxable for the 1998-assessment year was established by the admission in evidence of Department's Exhibit Nos. 1 through 6.

2. The Council was incorporated on May 9, 1933, pursuant to an "An Act concerning Corporations" for the following purposes:

To help girls realize the ideals of womanhood and to promote and carry on the purposes and objects of the Girl Scout movement in

Springfield, Illinois. (Dept. Ex. No. 2H)

3. The purpose clause of the Articles of Incorporation of the Council was amended pursuant to the "General Not For Profit Corporation Act" of Illinois on March 30, 1954, to read as follows:

The purpose of the corporation is to help girls develop as happy, resourceful individuals willing to share their abilities as citizens in their homes, their communities, their country and the world, based on a voluntarily accepted code of living, carried out in small groups under the guidance of adult leadership, providing a wide range of activities developed around the interests and needs of girls, and offering opportunities for fun, friendship, service and daily practice in living the Girl Scout Promise and Laws. (Dept. Ex. No. 2I)

4. The purpose clause of the Articles of Incorporation of the Council was amended pursuant to the "General Not For Profit Corporation Act" of Illinois on March 20, 1963, to read in part as follows:

To offer all girls, seven through seventeen, residing within its jurisdiction an opportunity to participate in the Girl Scout program, in accordance with the purpose of the Girl Scout movement in the United States of America, which is to inspire girls with the highest ideals of character, conduct, patriotism and service that they may become happy and resourceful citizens. (Dept. Ex. No. 2J)

5. The area served by the Council includes Christian, Logan, Macoupin, Mason, Menard, Montgomery, and Sangamon Counties in Illinois. (Tr. p. 16)

6. The Council has approximately 4,731 members and approximately 1,000 adult volunteers. (Tr. 16)

7. The membership of the Council is divided into groups by age. Girls 5 and 6 years of age may join the Daisy Girl Scouts. Girls ages 6, 7, and 8 may join the Brownie Girl Scouts. Junior Girls Scouts include girls ages 8, 9, 10, and 11. Cadette Girl Scouts include girls ages 11, 12, 13, and 14. Girls ages 14, 15, 16, and 17 may join the Senior Girl Scouts. (App. Ex. No. 16)

8. The Council had always rented space for its offices. In 1996 the Council learned that a former employee had left the Council 25% of her estate. The Council then got the developer of

the area where this parcel is located to make a price concession on the land at issue. The Council purchased this parcel on October 16, 1997. The Council was then able to obtain part of the financing for the construction of the building through county bond sales. (Tr. pp. 21 & 22, Dept. Ex. No. 2C)

9. On December 15, 1997, the contractor started site layout on the parcel here in issue. On December 23, 1997, the contractor began pouring concrete footings. Concrete foundation walls were started on December 31, 1997. The contractor began pouring the concrete floor slab on January 9, 1998. (Appl. Ex. 9)

10. On February 2, 1998, the contractor began rough framing. On March 9, 1998, the electrical, plumbing, heating and air conditioning subcontractors began to rough in their work. On March 27, 1998, work began on the concrete parking lot. On April 1, 1998, the exterior masonry was started. On June 19, 1998, work began on the landscaping and sodding. On June 30, 1998, the building was substantially complete and the Council began to move in. The move in was completed and the building was opened for Council activities on July 5, 1998. (Tr. pp. 34 & 35, Appl. Ex. No. 9)

11. When a person enters the front door of the building they pass through a vestibule into the lobby. On the left hand side of the lobby is the entrance to the Trefoil Shop and then a reception counter. At the reception counter, leaders or girls may turn in camp registrations, pay for various events and activities, and submit new memberships. (Tr. pp. 24 & 25, Dept. Ex. No. 2N)

12. Down the hall to the right is the resource room. The Council maintains a computer with an internet connection in this room. This room is also the Council's lending library. There are books and videos in this room that troop leaders can check out for use with their troops. The resource room is also used on Monday evenings for an after school-tutoring program. (Tr. p. 25, Dept. Ex. No. 2N)

13. Across the hall from the resource room is a room identified as the sick room. The sick room contains the Council's lending wardrobe of uniforms for Girl Scouts from Daisy to

Senior Girl Scouts. When the girls march in parades or participate in other activities they may check out uniform items which they don't own from the lending wardrobe for those purposes. (Tr. p. 26, Dept. Ex. No. 2N)

14. Down the hall on the right is a small conference room which is used for one on one training of volunteer troop leaders. This room is also used for committee meetings. (Tr. pp. 26 & 27, Dept. Ex. No. 2N)

15. The program room at the end of the hall is used for various meetings during the week and for troop overnights on the weekends. (Tr. p. 27, Dept. Ex. No. 2N)

16. Along the back hallway of the building are the offices and work areas for the program staff of the Council. This area can be locked off from the front of the building so that the resource room, lending wardrobe area, conference room, and program room can be used at night by the Girl Scouts and the volunteer leaders. (Tr. p. 28)

17. The Trefoil Shop area including the fitting room measures 25.44 feet by 22.86 feet or 581.62 square feet. The entire building contains 6993.50 square feet, so the Trefoil Shop is approximately 8% of the building. (Appl. Ex. No. 14)

18. The hours for the Trefoil Shop are 8:30 AM to 5:00 PM Tuesday through Friday and 10:30 AM to 7:00 PM on Mondays. On the first Saturday of each month the Trefoil Shop is open from 9:00 AM to Noon. (Tr. p. 41)

19. The Council hires two employees to work in the Trefoil Shop. One of those employees also has other duties. (Tr. p. 42)

20. The Trefoil Shop sells uniforms, tri-its (badges for the younger girls), badges, pencils, T-shirts, camping supplies, flags, and resource books. The resource books include songbooks, game books, and books on contemporary issues including preventing violence. If a girl or a volunteer orders an item through the Trefoil Shop, which the shop does not have in stock, the shop will pay the shipping charge. If a volunteer or a girl orders an item directly through the Girl Scout catalogue the person ordering it must pay a shipping charge. (Tr. pp. 45-47)

21. The national Girl Scout organization issues a catalogue every year of Girl Scout equipment and merchandise. However it is essential to the Council to have the Trefoil Shop on the premises so that volunteers can readily access materials to help them carry out the Girl Scout programs. It is also very convenient for the girls so that they can come in and try on various uniform components to see how they look and to see if they fit. (Tr. pp. 53-55)

22. Members of any of the Girl Scout organizations who sell between 10 and 49 boxes of Girl Scout Cookies during a cookie sales period receive a patch. If the member sells more than 49 boxes they qualify to receive "cookie dough". "Cookie dough" comes in certificates good for particular amounts of cash. The member may cash in the "cookie dough" for merchandise in the Trefoil Shop. It can also be used to help pay for camps or other Girl Scout activities. (Tr. pp.50 & 51, Appl. Ex. No. 15)

23. It is Council policy that any girl who wants to be in the Girl Scout program may do so. If a girl or her parent says the girl cannot afford the \$7.00 membership dues, which goes to the national Girl Scout organization, the Council will pay it and register the girl in scouting. (Tr. p.56)

24. The volunteer leaders are provided by the Council with a leader's kit which includes all the necessary publications. In addition they may borrow any other videos or books which they need from the Council lending library. (Tr. pp. 25 & 53)

25. If a member cannot afford to pay, a parent can fill out and submit a financial form. The Council then will give her, if she is a Brownie, her sash, which contains a Girl Scout insignia, a Council insignia, her troop numbers, and her Brownie Scout Handbook at no cost. A Junior Girl Scout, a Cadette, and a Senior Scout who could not afford to pay, would each receive a sash with appropriate insignias on it, a hand book, and a badge book at no cost. The Council gives each girl who cannot afford to pay a sash so she can display her try-its or badges on it. A Daisy who cannot afford to pay receives an apron at no cost. (Tr. pp. 55 & 56)

26. With the exception of the apron or sash, which is provided at no cost to the members who cannot afford to pay, members must pay for their uniforms. A uniform is not required for

membership. If a member is going to be in a parade or other public function she may borrow the portions of the uniform which she does not own from the Council's lending wardrobe. She may also purchase uniform items with her "cookie dough". (Tr. pp. 68 & 69)

27. The Council has procedures for the waiver or reduction of camp fees in cases of need. (Tr. p. 19)

28. The Council is exempt from federal income tax pursuant to Internal Revenue Code Section 501 (c)(3). (Tr. p. 18)

29. I take Administrative Notice of the Department's decision in this matter in which the Department has determined that 93.1% of this parcel and the building thereon qualify for exemption. (Dept. Ex. No. 3)

30. The parking lot located on this parcel contains 25 regular parking places and 2 handicapped parking spaces. There are 15 full time and one part time staff members of the Council who park in this lot. The Council owns a van which is driven to events and activities which is also parked on this lot. The remaining parking places are used by volunteers who come to the building for scout activities. No portion of the lot has ever been rented out and no one is charged to park in the lot. (Tr. pp. 39-41)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Concerning charitable organizations, 35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and

exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States....

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967). It is therefore very clear that the burden of proof is on the Council to establish that it is entitled to an exemption.

It should be pointed out that to qualify for an exemption from taxation as a charity, the applicant must demonstrate that there is ownership by a charitable organization and use for charitable purposes. Fairview Haven v. Department of Revenue, 153 Ill. App. 3d 763 (4th Dist. 1987); and Christian Action Ministry v. Department of Local Government Affairs, 74 Ill.2d 51 (1978).

Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987). In this case the contractor began pouring the concrete foundation walls on December 31, 1997. During 1998 the contractor and the subcontractors proceeded at a constant and steady pace to complete the building. The building was finished on June 30, 1998. Beginning on July 1, 1998, and then over the Independence Day Holiday the

Council moved into the building on this parcel. The Council was then ready to open its doors on July 5, 1998.

I take Administrative Notice of the Department's decision in this matter in which the Department has determined that 93.1% of this parcel and the building thereon was owned by a charitable organization and used for charitable purposes during the 1998-assessment year.

The calculations of the square footage of the building on this parcel and the Trefoil Shop indicate that the Trefoil Shop constitutes 8% of the square footage of the building. The remaining 92% of the building contains the administrative offices of the Council. In the case of Evangelical Hospital Association v. Novak, 125 Ill.App.3d 439 (2nd Dist. 1984), the Court determined that the administrative headquarters of an association of charitable hospitals qualified for exemption. I therefore conclude that the administrative offices of the Council qualify for exemption.

The Trefoil Shop sells only official Girl Scout items including uniform components, badges, camping supplies, flags and resource books. If a girl cannot afford to pay, the shop manager will pull a sash or apron from stock as well as the appropriate insignias and handbook and provide them to the girl at no cost. Also the shop has books and videos which are readily available for purchase by volunteer troop leaders. If the Trefoil Shop were not provided by the Council in this building for the Girl Scouts and volunteers, they would have to purchase items through the catalogue and pay shipping. The Trefoil Shop I conclude is reasonably necessary for the accomplishment of the objectives and efficient administration of the Council. See Evangelical Hospital Association v. Novak, 125 Ill.App.3d 439 (2nd Dist. 1984), and also MacMurray College v. Wright, 38 Ill.2d 272 (1967). In addition, as pointed out by the attorney for the Council in his brief, the use of 8% of the building on this parcel for the Trefoil Shop was merely incidental to and a convenience for both the members and volunteers of the Council in the charitable use of the entire property. Highland Park Women's Club v. Department of Revenue, 206 Ill.App.3d 447 (2nd Dist. 1990) (hereinafter referred to as "Highland Park"). In Highland Park, the Court determined that a gift shop operated by the Ravinia Festival

Association on its 36-acre property was incidental to and a convenience to concertgoers as a part of the charitable use of the entire property. I therefore conclude that the entire building located on the parcel here in issue qualifies for exemption during the entire 1998-assessment year as either being in the process of adaptation for charitable use or actually used for charitable purposes.

Parking areas may qualify for exemption from property taxation, if they meet the criteria set forth in 35 ILCS 200/15-125, which exempts certain property from taxation as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

I conclude that the parking area on the parcel here in issue meets each of the foregoing criteria.

I therefore recommend that all of Sangamon County Parcel Index No. 22-10.0-382-008 and the building and parking lot located thereon be exempt from real estate taxation for the entire 1998-assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
July 27, 2000